

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 924

Introduced by Senator Speier

February 22, 2005

~~An act to amend Section 15250 of the Vehicle Code, relating to school. An act to amend Sections 310.6, 11100, 11102.5, and 11104.5 of, and to add Section 11102.7 to, the Vehicle Code, relating to driving schools.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, Speier. ~~Commercial driver's license: driving test~~ *Driving schools: commercial trucks.*

(1) Existing law *exempts a school and the giving of instruction for driving of certain motortrucks from the licensing requirement for a driving school or instructor. prohibits a person from operating a commercial motor vehicle unless that person has a valid commercial driver's license of the appropriate class. A person may not be issued a commercial driver's license unless that person passes a written and driving test for the operation of a commercial motor vehicle that complies with federal law.*

This bill would *remove that exemption and require the owner of a driving school that provides, or person who, for compensation gives, instruction to an individual in the operation of a commercial truck to register with the Department of Motor Vehicles as a truck driver training center. The bill would redefine "driving school" to include a company that engages in the business of transporting commercial goods on public rights-of-way if it instructs an individual in the operation of a commercial truck. prohibit the administrator of the driving part of the examination from passing the person taking that test unless that person actually demonstrates driving skills that are consistent with the requirements of federal regulations.*

This bill would require the truck driver training center to provide a trainee with minimum instruction time, as specified. The bill would impose certain restrictions relating to the costs of training and the wages of trainees on the truck driver training center, as specified. The bill would require the truck driver training center to maintain records of its compliance with the training cost and wage provisions for at least one year after the completion of a trainee's training. The bill would require the Department of Motor Vehicles to audit each truck training center at least once every 2 years to ensure compliance with the training and related cost and wage requirements.

Because a violation of the Vehicle Code is currently a crime, this bill would impose a state-mandated local program by creating a new crime. *In addition, the bill would impose civil penalties, as specified, upon a truck driver training center that violates the training and related cost and wage requirements.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 310.6 of the Vehicle Code is amended to
2 read:

3 310.6. A “driving school” is a business~~—which~~ that, for
4 compensation, conducts or offers to conduct instruction in the
5 operation of motor vehicles, *including commercial trucks*. As
6 used in this section, “instruction” includes classroom driver
7 education, in-vehicle driver training, and correspondence study.
8 *A company engaged in the business of transporting commercial*
9 *goods on public rights-of-way shall be considered a driving*
10 *school if it instructs an individual in the operation of a*
11 *commercial truck.*

12 SEC. 2 Section 11100 of the Vehicle Code is amended to
13 read:

1 11100. (a) No person shall own or operate a driving school
2 or give driving instruction for compensation, unless a license
3 therefor has been secured from the department.

4 ~~(b) This section does not apply to the ownership or operation~~
5 ~~of any school, or the giving of instruction, for the driving of~~
6 ~~motortrucks of three or more axles which are more than 6,000~~
7 ~~pounds unladen weight.~~

8 *SEC. 3. Section 11102.5 of the Vehicle Code is amended to*
9 *read:*

10 11102.5. (a) A driving school operator shall meet all of the
11 following requirements:

12 (1) Within three attempts, pass an examination that the
13 department requires on traffic laws, safe driving practices,
14 operation of motor vehicles, *including commercial trucks, in the*
15 *case of a truck driver training center operator*, teaching methods
16 and techniques, driving school statutes and regulations, and
17 office procedures and recordkeeping.

18 (2) Pay the department a fee of one hundred dollars (\$100),
19 which shall entitle the applicant to three examinations.

20 (3) Be 21 years of age or older.

21 (4) Have worked for an established licensed California driving
22 school as a driving instructor for a period of not less than 2,000
23 hours of actual behind-the-wheel teaching and, on and after July
24 1, 1973, have satisfactorily completed a course in the teaching of
25 driver education and driver training acceptable to the department,
26 except that the operator, including an owner who is also the
27 operator, of a driving school that exclusively teaches motorcycle
28 driving may, in lieu of the behind-the-wheel teaching
29 requirement, have worked for an established licensed California
30 driving school as a motorcycle driving instructor for not less than
31 300 hours of actual motorcycle range and street teaching, have
32 taught 300 hours of actual motorcycle range and street instruction
33 under the guidance of the Motorcycle Safety Foundation, or have
34 given comparable training instruction that is acceptable to the
35 department. This paragraph does not apply to any person who is
36 certified by the State Department of Education as fully qualified
37 to teach driver education and driver training and has taught those
38 subjects in the public school system for not less than 1,000 hours.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee shall be required.

SEC. 4. Section 11102.7 is added to the Vehicle Code, to read:

11102.7. (a) An owner of a driving school that provides, or a person who, for compensation, gives, training to an individual wishing to obtain a commercial driver license for the purposes of operating a commercial truck, shall meet all of the following requirements:

(1) Register with the department as a truck driver training center on forms prescribed by the department.

(2) Submit to the department a registration fee, as prescribed by the department, to cover the department's cost in processing the registration application and in performing the audit required by subdivision (b).

(3) Provide each trainee with a minimum of 120 hours of classroom instruction and a minimum of 40 hours of behind-the-wheel training. As used in this paragraph, "behind-the-wheel training" means the time spent by the trainee in the operation of a commercial truck on a public road or on a private training ground where he or she is physically responsible for operating the commercial truck.

(4) Provide each prospective trainee with a clear and unambiguous rate schedule documenting the cost of the training. A truck driver training center shall not advertise its training as free if it requires a trainee to enter into an employment contract at the conclusion of the training. It shall be unlawful for a truck driver training center to reduce the wages of a trainee to recover the cost of training that trainee unless the trainee was advised of the payment arrangement before accepting employment and the employment is not conditional upon the acceptance of the payment arrangement.

(5) Maintain documentation regarding compliance with the requirements of paragraphs (3) and (4), for a minimum of one year from the date of the completion of training for a trainee.

(b) At least once every two years, the department shall conduct an audit of each truck driver training center to determine its compliance with the requirements of paragraphs (3) and (4) of subdivision (a).

1 (c) A truck driver training center that violates the
2 requirements of paragraph (3) of subdivision (a) shall, in
3 addition to any other penalty provided by law, be subject to a
4 civil penalty not to exceed five thousand dollars (\$5,000) for
5 each trainee.

6 (d) A truck driver training center found to be in violation of
7 any of the requirements of paragraph (4) of subdivision (a) shall,
8 in addition to any other penalty provided by law, be subject to a
9 civil penalty of twenty-five thousand dollars (\$25,000) for each
10 audit.

11 SEC. 5. Section 11104 of the Vehicle Code is amended to
12 read:

13 11104. (a) Every person, in order to qualify as a driving
14 instructor, as defined in Section 310.4, shall meet all of the
15 following requirements:

16 (1) On and after July 1, 1973, have a high school education or
17 its equivalent and have satisfactorily completed a course in the
18 teaching of driver education and driver training acceptable to the
19 department.

20 (2) Within three attempts, pass an examination that the
21 department requires on traffic laws, safe driving practices,
22 operation of motor vehicles, *including commercial trucks, in the*
23 *case of a truck driver training center operator*, and teaching
24 methods and techniques.

25 (3) Be physically able to safely operate a motor vehicle,
26 *including commercial trucks, in the case of a truck driver*
27 *training center operator*, and to train others in the operation of
28 motor vehicles, *including commercial trucks, in the case of a*
29 *truck driver training center operator*.

30 (4) Hold a valid California driver's license in a class
31 appropriate for the type of vehicle in which instruction will be
32 given.

33 (5) Not be on probation to the department as a negligent
34 operator.

35 (6) Have a driving record that does not have an outstanding
36 notice for violating a written promise to appear in court or for
37 willfully failing to pay a lawfully imposed fine, as provided in
38 Section 40509.

39 (7) Be 21 years of age or older.

(b) If an applicant cannot meet the requirements of paragraphs (3) and (4) of subdivision (a) because of a physical disability, the department may, at its discretion, issue the applicant a driving school instructor's license restricted to classroom driver education instruction only.

(c) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee shall be required.

SECTION 1. ~~Section 15250 of the Vehicle Code is amended to read:~~

~~15250. (a) (1) A person may not operate a commercial motor vehicle unless that person has in his or her immediate possession a valid commercial driver's license of the appropriate class.~~

~~(2) A person may not operate a commercial motor vehicle while transporting hazardous materials unless that person has in his or her possession a valid commercial driver's license with a hazardous materials endorsement. An instruction permit does not authorize the operation of a vehicle transporting hazardous materials.~~

~~(b) (1) Before an application for an original or renewal of a commercial driver's license with a hazardous materials endorsement is submitted to the United States Transportation Security Administration for the processing of a security threat assessment, as required under Part 1572 of Title 49 of the Code of Federal Regulations, the department shall complete a check of the applicant's driving record to ensure that the person is not subject to a disqualification under Part 383.51 of Title 49 of the Code of Federal Regulations.~~

~~(2) A person may not be issued a commercial driver's license until he or she has passed a written and driving test for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code.~~

~~(c) The tests shall be prescribed and conducted by or under the direction of the department. The department may allow a third-party tester to administer the driving test part of the~~

1 ~~examination required under this section and Section 15275 if all~~
2 ~~of the following conditions are met:~~

3 ~~(1) The tests given by the third party are the same as those that~~
4 ~~would otherwise be given by the department.~~

5 ~~(2) The third party has an agreement with the department~~
6 ~~including, but not limited to, the following provisions:~~

7 ~~(A) Authorization for the United States Secretary of~~
8 ~~Transportation, or his or her representative, and the department,~~
9 ~~or its representative, to conduct random examinations,~~
10 ~~inspections, and audits without prior notice.~~

11 ~~(B) Permission for the department, or its representative, to~~
12 ~~conduct onsite inspections at least annually.~~

13 ~~(C) A requirement that all third-party testers meet the same~~
14 ~~qualification and training standards as the department's~~
15 ~~examiners, to the extent necessary to conduct the driving skill~~
16 ~~tests in compliance with the requirements of Part 383 of Title 49~~
17 ~~of the Code of Federal Regulations.~~

18 ~~(D) The department may cancel, suspend, or revoke the~~
19 ~~agreement with a third-party tester if the third-party tester fails to~~
20 ~~comply with the standards for the commercial driver's license~~
21 ~~testing program, or with any other term of the third-party~~
22 ~~agreement, upon 15 days prior written notice of the action to~~
23 ~~cancel, suspend, or revoke the agreement by the department to~~
24 ~~the third party. Any action to appeal or review any order of the~~
25 ~~department canceling, suspending, or revoking a third-party~~
26 ~~testing agreement shall be brought in a court of competent~~
27 ~~jurisdiction under Section 1085 of the Code of Civil Procedure,~~
28 ~~or as otherwise permitted by the laws of this state. The action~~
29 ~~shall be commenced within 90 days from the effective date of the~~
30 ~~order.~~

31 ~~(E) Any third-party tester whose agreement has been canceled~~
32 ~~pursuant to subparagraph (D) may immediately apply for a~~
33 ~~third-party testing agreement.~~

34 ~~(F) A suspension of a third-party testing agreement pursuant to~~
35 ~~subparagraph (D) shall be for a term of less than 12 months as~~
36 ~~determined by the department. After the period of suspension, the~~
37 ~~agreement shall be reinstated upon request of the third-party~~
38 ~~tester.~~

39 ~~(G) A revocation of a third-party testing agreement pursuant to~~
40 ~~subparagraph (D) shall be for a term of not less than one year. A~~

1 ~~third-party tester may apply for a new third-party testing~~
2 ~~agreement after the period of revocation and upon submission of~~
3 ~~proof of correction of the circumstances causing the revocation.~~

4 ~~(H) Authorization for the department to charge the third-party~~
5 ~~tester a fee, as determined by the department, which is sufficient~~
6 ~~to defray the actual costs incurred by the department for~~
7 ~~administering and evaluating the third-party testing program, and~~
8 ~~for carrying out any other activities deemed necessary by the~~
9 ~~department to ensure sufficient training for the drivers~~
10 ~~participating in the program.~~

11 ~~(3) Except as provided in Section 15250.3, the tests given by~~
12 ~~the third party shall not be accepted in lieu of tests prescribed and~~
13 ~~conducted by the department for applicants for a passenger~~
14 ~~vehicle endorsement specified in paragraph (2) of subdivision (a)~~
15 ~~of Section 15278, if the applicant operates or will operate a tour~~
16 ~~bus.~~

17 ~~(d) Commercial driver's license applicants who take and pass~~
18 ~~driving tests administered by a third party shall provide the~~
19 ~~department with certificates of driving skill satisfactory to the~~
20 ~~department that the applicant has successfully passed the driving~~
21 ~~tests administered by the third party.~~

22 ~~(e) Implementation dates for the issuance of a commercial~~
23 ~~driver's license pursuant to this chapter may be established by~~
24 ~~the department as it determines is necessary to accomplish an~~
25 ~~orderly commercial driver's license program.~~

26 ~~(f) The administrator of the driving part of the examination~~
27 ~~required under this section, including, but not limited to, a~~
28 ~~third-party tester shall not pass the person taking that test unless~~
29 ~~that person actually demonstrates driving skills that are~~
30 ~~consistent with the safe driving skill requirements for the vehicle~~
31 ~~group the person expects to operate as set forth in Part 383 of~~
32 ~~Title 49 of Code of Federal Regulation.~~

33 ~~SEC. 2.~~

34 ~~SEC. 6.~~ No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the
39 penalty for a crime or infraction, within the meaning of Section
40 17556 of the Government Code, or changes the definition of a

1 crime within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

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5 **CORRECTIONS:**

6 **Text—Pages 8 and 9.**

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